

amended claims 4-6, 11-13 and 19-20 are patentable under 35 U.S.C. § 112, second paragraph.

**II. 35 U.S.C. § 102**

Claims 1, 7, 15-18 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Oto (U. S. Patent No. 5,437,051). Applicant respectfully submits that claims 1, 7, 15 and 18 are patentable under 35 U. S. C. § 102(b) over Oto for the following reasons. With respect to claim 1, applicant respectfully submits that Oto does not disclose all the elements recited in claim 1. Applicant respectfully submits that Oto does not disclose the limitation of claim 1 recited at lines 9-10 that states "wherein said local oscillator is configured to operate within a third band located between said first and second bands." Contrary to the Examiner's assertion, the local oscillator in Oto does not operate within a third band located between the first and the second bands. Rather the third band (900 to 2100 MHz) is not located between the first and second bands but instead overlaps with the first and second bands disclosed in Oto. The Examiner's analysis according to which the local oscillator covers frequencies overlapping the first and second bands and therefore is located between both bands is incorrect. In claim 1 there is a relationship between the bands themselves as the third band is located between the first and second bands. The meaning generally given to such terminology located between first and second bands does not include overlapping with the first and second bands. This transpires from the specification of the above-identified application and its drawings. Accordingly, Oto does not disclose

the limitation according to which the local oscillator is configured to operate within a third band located between the first and second bands, To further clarify the distinction between Oto and the present invention, applicant has added claim 22 which recites "said local oscillator is configured to operate within a third band located between said first and second bands, and separated from said first and second bands." With respect to claim 7, claim 7 is patentable by virtue of its dependency on claim 1 which has been shown to be patentable. Claim 15 is patentable over Oto for the same reason that claim 1 has shown to be patentable over Oto. Claims 16-18 are patentable by virtue of their dependency on claim 15.

Accordingly, applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 102(b) with respect to claims 1, 7 and 15-18.

### **III. 35 U.S.C. §103**

Claims 2-6, 8-14 and 19-21 have been rejected under 35 & 7 U. S. C. § 103(a) as being unpatentable over Oto in view of Smith, et al. ,hereinafter "Smith", U. S. Patent No. 5,694,414. Claims 2-6 are patentable over Oto in view of Smith by virtue of their dependency on claim 1 which has been shown to be patentable. Claim 8 is patentable as reciting limitations similar to the limitations recited in claim 1. Claims 9-14 are patentable by virtue of their dependency on claim 8 which has been shown to be patentable. Claims 16-20 are patentable by virtue of their dependency on claim 15 which has been shown to be patentable. Claim 21 is patentable as reciting limitations similar to the

limitations of claim 1. Claim 22 is patentable over the cited prior art as it recites limitation similar to the limitations of claim 1 and the additional limitations according to which the third band is separated from the first and second bands. Accordingly, applicant respectfully requests that the pending claims 1-22 are patentable and respectfully requests withdrawal of the rejections under 35 U. S. C. § 102 and § 103 with respect to claims 1-21, and allowance of claims 1-22.

### **CONCLUSION**

In view of the foregoing, it is believed that all claims now pending patentable define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

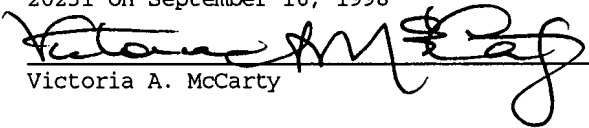
Date: September 16, 1998 By: 

Dinu Gruia Reg. No. 42,996

12400 Wilshire Blvd., 7th Floor  
Los Angeles, CA 90025  
(310) 207-3800

#### **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231 on September 16, 1998

  
Victoria A. McCarty